

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 389

Introduced by Assembly Member Saldana

February 23, 2009

An act to amend ~~Section 10236.13 of~~ *Sections 10236.12 and 10236.13 of*, and to add *Section 10236.16 to*, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 389, as amended, Saldana. Long-term care insurance.

Existing law provides for regulation of insurers, including insurers issuing policies of long-term care insurance, by the Insurance Commissioner. Existing law requires actuaries used by the commissioner to review rate applications submitted by insurers relative to long-term care insurance, whether by employment or by contract, to be members of the American Academy of Actuaries with at least 5 years' relevant experience.

This bill would delete the requirement for 5 years' relevant experience and instead require that the members of the academy employed or contracted for this purpose be qualified to review long-term care insurance rates. The bill would authorize the commissioner to contract with qualified independent actuaries for this purpose. The bill would require the costs and expenses of the actuarial reviews to be charged to the insurer. The bill would authorize the commissioner to adopt regulations in this regard and would make other technical changes.

~~Existing law prohibits an insurer from increasing the premium for an individual or group long-term care insurance policy or a specified certificate unless the insurer received prior approval from the Insurance~~

Commissioner. Existing law requires the insurer to submit to the commissioner all proposed premium rate schedule increases that include certain specified information, such as an actuarial memorandum justifying the rate schedule change and a statement that renewal premium rate schedules are not greater than new business premium rate schedules.

~~This bill would make a technical, nonsubstantive change.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10236.12 of the Insurance Code is
2 amended to read:

3 10236.12. All actuaries used by the commissioner to review
4 rate applications submitted by insurers pursuant to this chapter,
5 whether employed by the department or secured by contract, shall
6 be members of the American Academy of Actuaries with at least
7 five years' relevant experience in long-term care insurance industry
8 pricing. ~~If the department does not have actuaries with the~~
9 ~~experience required by this section, the commissioner shall contract~~
10 ~~with actuaries to review all rate applications submitted by insurers~~
11 ~~pursuant to this chapter. If the department has actuaries that have~~
12 ~~experience required by this section, but not enough of those~~
13 ~~experienced actuaries to perform the volume of work required by~~
14 ~~this chapter, the commissioner may contract with independent~~
15 ~~actuaries, as necessary qualified to review long-term care insurance~~
16 ~~rates. The commissioner may contract with qualified independent~~
17 ~~actuaries to review rate applications submitted by insurers~~
18 ~~pursuant to this chapter. The costs and expenses of the actuarial~~
19 ~~reviews of premium rate schedules subject to Section 10236.11,~~
20 ~~10236.14, or 10236.15 shall be charged to the insurer.~~

21 ~~If the commissioner contracts with independent actuaries, the~~
22 ~~commissioner shall promulgate regulations no later than January~~
23 ~~1, 2002, to maintain the confidentiality of rate filings and~~
24 ~~proprietary insurer information and to avoid conflicts of interest.~~

25 SEC. 2. Section 10236.13 of the Insurance Code is amended
26 to read:

27 10236.13. No insurer may increase the premium for an
28 individual or group long-term care insurance policy or certificate

1 approved for sale under this chapter unless the insurer has received
2 prior approval for the increase from the commissioner.

3 The insurer shall submit to the commissioner for approval all
4 proposed premium rate schedule increases, including at least all
5 of the following information:

6 (a) Certification by an actuary, who is a member of the American
7 Society Academy of Actuaries and who is in good standing with
8 that ~~society~~ organization, that:

9 (1) If the requested premium rate schedule increase is
10 implemented and the underlying assumptions, which reflect
11 moderately adverse conditions, are realized, no further premium
12 rate schedule increases are anticipated.

13 (2) The premium rate filing is in compliance with the provisions
14 of this section.

15 (b) An actuarial memorandum justifying the rate schedule
16 change request that includes all of the following:

17 (1) Lifetime projections of earned premiums and incurred claims
18 based on the filed premium rate schedule increase, and the method
19 and assumptions used in determining the projected values,
20 including reflection of any assumptions that deviate from those
21 used for pricing other forms currently available for sale.

22 (A) Annual values for the five years preceding and the three
23 years following the valuation date shall be provided separately.

24 (B) The projections shall include the development of the lifetime
25 loss ratio.

26 (C) For policies issued with premium rate schedules approved
27 under Section 10236.11, the projections shall demonstrate
28 compliance with subdivision (a) of Section 10236.14. For all other
29 policies, the projections shall demonstrate compliance with Section
30 10236.1.

31 (D) ~~In the event~~ If the commissioner determines that a premium
32 rate increase is justified due to changes in laws or regulations that
33 are retroactively applicable to long-term care insurance previously
34 sold in this state, then:

35 (i) The projected experience should be limited to the increases
36 in claims expenses attributable to the changes in law or regulations.

37 (ii) ~~In the event~~ If the commissioner determines that potential
38 offsets to higher claims costs may exist, the insurer shall be
39 required to use appropriate net projected experience.

(2) Disclosure of how reserves have been incorporated in this rate increase.

(3) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary.

(4) A statement that policy design, underwriting, and claims adjudication practices have been taken into consideration.

~~(5) In the event that~~ If it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer shall file composite rates reflecting projections of new certificates.

(c) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner.

(d) Sufficient information for approval of the premium rate schedule increase by the commissioner.

(e) The provisions of this section are applicable to all individual and group policies issued in this state on or after July 1, 2002.

SEC. 3. Section 10236.16 is added to the Insurance Code, to read:

10236.16. The commissioner may adopt regulations to implement the provisions of this article.

~~SECTION 1. Section 10236.13 of the Insurance Code is amended to read:~~

~~10236.13. No insurer may increase the premium for an individual or group long-term care insurance policy or certificate approved for sale under this chapter unless the insurer has received prior approval for the increase from the commissioner.~~

~~The insurer shall submit to the commissioner for approval all proposed premium rate schedule increases, including, but not limited to, all of the following information:~~

~~(a) Certification by an actuary, who is a member of the American Society of Actuaries and who is in good standing with that society, that:~~

~~(1) If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated.~~

1 ~~(2) The premium rate filing is in compliance with the provisions~~
2 ~~of this section.~~

3 ~~(b) An actuarial memorandum justifying the rate schedule~~
4 ~~change request that includes all of the following:~~

5 ~~(1) Lifetime projections of earned premiums and incurred claims~~
6 ~~based on the filed premium rate schedule increase, and the method~~
7 ~~and assumptions used in determining the projected values;~~
8 ~~including reflection of any assumptions that deviate from those~~
9 ~~used for pricing other forms currently available for sale.~~

10 ~~(A) Annual values for the five years preceding and the three~~
11 ~~years following the valuation date shall be provided separately.~~

12 ~~(B) The projections shall include the development of the lifetime~~
13 ~~loss ratio.~~

14 ~~(C) For policies issued with premium rate schedules approved~~
15 ~~under Section 10236.11, the projections shall demonstrate~~
16 ~~compliance with subdivision (a) of Section 10236.14. For all other~~
17 ~~policies, the projections shall demonstrate compliance with Section~~
18 ~~10236.1.~~

19 ~~(D) In the event the commissioner determines that a premium~~
20 ~~rate increase is justified due to changes in laws or regulations that~~
21 ~~are retroactively applicable to long-term care insurance previously~~
22 ~~sold in this state, then:~~

23 ~~(i) The projected experience should be limited to the increases~~
24 ~~in claims expenses attributable to the changes in law or regulations.~~

25 ~~(ii) In the event the commissioner determines that potential~~
26 ~~offsets to higher claims costs may exist, the insurer shall be~~
27 ~~required to use appropriate net projected experience.~~

28 ~~(2) Disclosure of how reserves have been incorporated in this~~
29 ~~rate increase.~~

30 ~~(3) Disclosure of the analysis performed to determine why a~~
31 ~~rate adjustment is necessary, which pricing assumptions were not~~
32 ~~realized and why, and what other actions taken by the company~~
33 ~~have been relied on by the actuary.~~

34 ~~(4) A statement that policy design, underwriting, and claims~~
35 ~~adjudication practices have been taken into consideration.~~

36 ~~(5) In the event that it is necessary to maintain consistent~~
37 ~~premium rates for new certificates and certificates receiving a rate~~
38 ~~increase, the insurer shall file composite rates reflecting projections~~
39 ~~of new certificates.~~

- 1 ~~(c) A statement that renewal premium rate schedules are not~~
2 ~~greater than new business premium rate schedules except for~~
3 ~~differences attributable to benefits, unless sufficient justification~~
4 ~~is provided to the commissioner.~~
5 ~~(d) Sufficient information for approval of the premium rate~~
6 ~~schedule increase by the commissioner.~~
7 ~~(e) The provisions of this section are applicable to all individual~~
8 ~~and group policies issued in this state on or after July 1, 2002.~~